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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

STEPHEN R.F. KERN, JR.,

Plaintiff,

v.

STROUD, *et al.*,

Defendants.

Case No. 2:13-cv-02227-RFB-NJK

**MOTION FOR EXTENSION OF TIME TO  
FILE OPPOSITION TO PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT**

**(SECOND REQUEST)**

Defendants Dwight Neven, Harold Wickham, Jerry Howell, William Kuloloia, and Jason Henry, by and through counsel, Adam Paul Laxalt, Nevada Attorney General, and Eric N. Tran, Deputy Attorney General, of the State of Nevada, Office of the Attorney General, hereby submit this Motion for Extension of Time to File Opposition to Plaintiff's Motion for Summary Judgment (Second Request).

DATED this 23rd day of September, 2015.

Respectfully submitted,

ADAM PAUL LAXALT  
Nevada Attorney General

By: /s/ Eric N. Tran  
ERIC N. TRAN  
Deputy Attorney General  
*Attorneys for Defendants*

**MEMORANDUM OF POINTS AND AUTHORITIES**

This is a civil rights action brought by Plaintiff Stephen R.F. Kern, Jr., an inmate in the custody of the Nevada Department of Corrections ("NDOC"), against various NDOC employees alleging deprivations of his Eighth Amendment rights pursuant to 42 U.S.C. § 1983.

On April 22, 2015, this Court issued a Scheduling Order stating that Motions for Summary Judgment must be filed and served by August 20, 2015. Dkt. # 32. On July 30, 2015, Plaintiff filed his Motion for Summary Judgment. Dkt. # 36. On September 2, 2015, this Court extended the deadline to September 23, 2015 for Defendants to file an Opposition to Plaintiff's Motion for Summary Judgment. Dkt. # 46.

Defendants' counsel has been working diligently to complete an Opposition to Plaintiff's Motion for Summary Judgment by the September 23, 2015 deadline. However, as stated in Defendants' previous motion for extension of time, three Senior Deputy Attorneys General recently left the Office of the Attorney General. As a result of these recent departures, Defendants' counsel was assigned to take over a significant number of the departing Senior Deputy Attorneys' General active cases. While the Office of the Attorney General has hired two additional Deputy Attorneys General as of today's date, these new Deputy Attorneys General have not had an opportunity to become familiar with the cases sufficient to assume the day to day responsibilities of these cases. As such, Defendants' counsel has continued to assume the responsibility of the majority of cases left by the departing Senior Deputy Attorneys General.

In addition, Defendants' counsel's dispositive motions calendar in other cases has affected Defendants' counsel's ability to file an Opposition to Plaintiff's Motion for Summary Judgment in this case by the September 23, 2015 deadline. For example, Defendants' counsel had a Motion for Summary Judgment in *Clemons v. Williams*, 13-cv-00093-RFB-NJK due on September 14, 2015; an Opposition to Plaintiff's Motion for Summary Judgment in *Johnson v. Little*, 14-cv-00649-RFB-VCF due on September 10, 2015; a Motion for Summary Judgment in *Campbell v. Cox*, 13-cv-02303-JAD-NJK due on August 31, 2015; a Reply in

1 Support of a Motion for Summary Judgment in *Woods v. Brown*, 13-cv-01029-APG-NJK that  
 2 was due on September 8, 2015; a Motion for Summary Judgment in *Richard v. Cox*, 2:12-cv-  
 3 1236-GMN-CWH that was due on September 14, 2015; and a Motion for Summary Judgment  
 4 in *Johnson v. Little*, 14-cv-00649-RFB-VCF, due on September 21, 2015.

5 Further, Defendants' counsel was out of the office from September 15, 2015 through  
 6 September 18, 2015 on a mandatory four day trial training for the Office of the Attorney  
 7 General. Defendants' counsel was also out of town on a family matter from September 19,  
 8 2015 to September 21, 2015.

9 These events, coupled with the fact that Defendants' counsel just recently fully  
 10 recovered from his back injury, have significantly impacted Defendants' counsel's ability to file  
 11 an Opposition to Plaintiff's Motion for Summary Judgment by the September 23, 2015,  
 12 deadline. As such, Defendants request an additional 30 days up to and until October 23,  
 13 2015, to file an Opposition to Plaintiff's Motion for Summary Judgment.

14 Notably, this Court recently extended the deadline for the parties to file a motion for  
 15 summary judgment to October 21, 2015. Dkt. # 50. Defendants anticipate that the arguments  
 16 in support of Defendants' Opposition to Plaintiff's Motion for Summary Judgment will be  
 17 similar to the arguments made in Defendants' Motion for Summary Judgment.

18 FRCP 6 (b)(1) states that "[w]hen an act may or must be done within a specified time,  
 19 the court may, for good cause, extend the time . . . if a request is made, before the original  
 20 time or its extension expires."

21 Based on the foregoing, Defendants request an additional 30-day extension of time  
 22 from the present deadline up to October 23, 2015, to file an Opposition to Plaintiff's Motion for  
 23 Summary Judgment.

24 DATED this 23th day of September, 2015.

25 IT IS SO ORDERED:

26 

27 RICHARD F. BOULWARE, II  
 28 United States District Judge  
 DATED this 27th day of September, 2015.

Respectfully submitted

ADAM PAUL LAXALT  
 Nevada Attorney General

By: /s/ Eric Tran  
 ERIC N. TRAN  
 Deputy Attorney General  
 Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General and that on the 23rd day of September, 2015, I served the foregoing **MOTION FOR EXTENSION OF TIME TO FILE OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (SECOND REQUEST)**, by causing a true and correct copy thereof to be filed with the Clerk of the Court using the electronic filing system and by causing a true and correct copy thereof to be delivered to the Department of General Services, for mailing at Las Vegas, Nevada, addressed to the following:

Stephen R.F. Kern, Jr., #66648  
Ely State Prison  
P.O. Box 1989  
Ely, Nevada 89301  
Plaintiff, *Pro Se*

/s/ Diane Q. Resch

An employee of:  
STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

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